



THE COUNCIL OF THE CITY OF BINGHAMTON  
STATE OF NEW YORK

Date: March 20, 2013

Sponsored by Council Members: Motsavage, Matzo, Rennia, Mihalko, Papastrat, Berg

Introduced by Committee: Municipal & Public Affairs

RESOLUTION

*entitled*

A RESOLUTION APPROVING AGREEMENT  
NO. IX AMENDING THE JOINT SEWAGE  
TREATMENT MUNICIPAL AGREEMENT  
BETWEEN THE VILLAGE OF JOHNSON CITY  
AND THE CITY OF BINGHAMTON

WHEREAS, on July 14, 1965, the City of Binghamton ("City") and the Village Johnson City ("Village") entered into an Intermunicipal Agreement (Agreement No. I), for joint ownership and operation of a sewage treatment plant and related facilities known as the Binghamton-Johnson City Joint Sewage Treatment Plant (the "JSTP"); and

WHEREAS, the City and Village have amended the Intermunicipal Agreement (Agreement No. I) from time to time, including Agreement No. VII made as of the 1<sup>st</sup> day of September, 2009 and Agreement No. VIII made as of the 26<sup>th</sup> day of June 2012; and

WHEREAS, the Binghamton City Council and the Village of Johnson City Board of Trustees wish to amend said Agreements as provided herein.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby:

RESOLVE, that the Mayor, or his designee, is hereby authorized to enter into Agreement No. IX with the Village as provided herein.

A. That the Mayor, or his designee, is hereby authorized to enter into an Agreement with the Village to Intermunicipal Agreement (Agreements No. I) to replace paragraph 15 as follows:

15. The comptroller of the City shall be the fiscal officer of the Board. In addition to his official bond as such Comptroller, he shall file, during his term of office as fiscal officer, a bond in favor of both parties in such penal sum as may be determined by the Owners, conditioned upon his faithful performance of the trust imposed upon him. He shall at all times be deemed an employee of the City. The cost of same shall be paid from the joint sewage project budget.

The fiscal officer shall deposit all monies received by him on account of the Board in a special account in a bank or trust company in the City of Binghamton designated as an official depository by the Board. Claims against the Board shall be in such form as the fiscal officer shall prescribe and shall be approved by the Board, or its designee[s] as set forth by the Board in writing. No such approved claim shall be paid unless it shall have been presented to the fiscal officer and shall have been audited by the fiscal officer in accordance with Section 119-o of the General Municipal Law.



**THE COUNCIL OF THE CITY OF BINGHAMTON  
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B. That the Mayor, or his designee, is hereby authorized to enter into an Agreement with the Village to Amend Agreement No. VII to replace paragraphs 3 and 7 as follows:

3. The Owners shall adopt those portions of the budget pertaining to "capital items" unless a total of 50% of the combined legislators vote to reject or amend such capital lines, *i.e.*, if 6 out of 12 combined legislators vote to reject or amend such capital lines. A "capital item" shall mean any purchase or project for construction which a) adds or improves the physical plant, b) has an expected use of more than three years, and c) has a cost in excess of \$10,000.00.

7. The Board may be permitted to make budget transfers during the year or within 30 days thereafter so long as such transfers do not increase the joint sewage project budgeted expenses for the year under the following conditions:

a. The Board will give the City Clerk and Village Clerk written notice via email of any proposed budget transfer approved by the Board. The written notice will state if the proposed budget transfer is (i) for a non-capital item up to \$2,500, (ii) a non-capital item of more than \$2,500 or cumulative transfers of \$20,000 or more in the calendar year; or (iii) a capital item. The notice will include a copy of the Board's minutes or resolution approving the proposed budget transfer and a RL (request for legislation). The Board will copy said email to the (i) Mayor, President of City Council, Corporation Counsel, and Comptroller of the City and (ii) Mayor, Trustees, Attorney, and Treasurer of the Village.

b. Non-capital items. The Board may transfer up to \$2,500 from one budget line to another budget line without legislative approval, except all transfers to increase salary or benefits for any personnel shall require legislative approval. The Board may transfer more than \$2,500 from the contingency budget line to another or various other budget lines, except all transfers to increase salary or benefits for any personnel shall require legislative approval. Any transfer of more than \$2,500 from any budget line or cumulative transfers of \$20,000 or more in the calendar year shall be deemed denied unless a majority of the members of both legislative bodies vote to approve such budget transfer within thirty five (35) days from the date of receipt of the written notice and RL (request for legislation) from the Board as required in paragraph "a" above.

c. Capital items. Any request for a budget transfer shall be deemed denied unless a majority of the members of both legislative bodies vote to approve such budget transfer within thirty five (35) days from the date of receipt of the written notice and RL (request for legislation) from the Board as required in paragraph "a" above. This provision shall apply to all capital budget lines, whether established before or after this Agreement.

d. No new budget lines will be established without approval of a majority of the members of both legislative bodies.

e. Any legislative vote required above may be made at a separate or a joint meeting of the legislative bodies.

C. That the Mayor, or his designee, is hereby authorized to enter into an Agreement with the Village to Amend Agreement No. VIII to replace paragraph 3.f as follows:

3.f. Pay claims for Phase III Remedial Project expenses approved by (i) the fiscal officer of the Joint Sewage Treatment Plant and (ii) the Lead Agency, including by the City Engineer or a designated Clerk of the Works for all design and construction contracts and by the City Corporation Counsel for all legal, accounting, consulting, and related expert fees and expenses. Such claims for project expenses may be paid from the approved budget for the Phase III Remedial Project or from funds transferred by the City and Village



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within the Joint sewage treatment project budget for such expenses. The Lead Agency shall prepare a monthly report of the finances of the Phase III Remedial Project and provide copies or access to such information to the Village and Sewage Board (a/k/a the "Board") not later than the 15<sup>th</sup> day of the month following the month covered by the report. The Lead Agency will provide the Sewage Board with a copy of claims for project expenses approved by the Lead Agency.

All payments for the Phase III Remedial Project expenses approved by the fiscal officer of the Joint Sewage Treatment Plant and the Lead Agency through March 20, 2013 are hereby ratified.

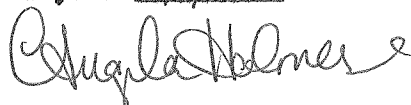
D. That the Mayor, or his designee, is further authorized to enter into Agreement No. IX with the Village to supplement the Intermunicipal Agreement (Agreements No. I) and or amendments known as Agreements No. II through No. VIII as follows:

1. Notwithstanding any provisions in the Intermunicipal Agreement (Agreement No. I) dated July 14, 1965, or amendments known as Agreements No. II through No. VIII to the contrary, by a majority vote of the members of both legislative bodies, the City and the Village shall have the following additional authority: To transfer funds in the joint sewage project budget to pay for any unanticipated expenses, and all associated costs, including, but not limited to, legal, accounting, consulting, and expert fees and expenses; such transfers shall not require approval of the Board (a/ka/ the "Sewage Board"); the legislative bodies will establish new budget lines for such unanticipated expenses, and will determine the person or entity authorized to approve and audit such payments, which shall be subject to approval of the fiscal officer of the Joint Sewage Treatment Plant. Notice of any proposed transfer(s) will be given to the Board Chairman, Superintendent, and Business Manager, or such similar positions as may be designated from time to time, by written notice via email at least fifteen (15) days prior to any legislative vote.

2. Notwithstanding any provisions in the Intermunicipal Agreement (Agreement No. I) dated July 14, 1965, or amendments known as Agreements No. II through No. VIII to the contrary, the fiscal officer of the Joint Sewage Treatment Plant, i.e., the Comptroller of the City of Binghamton, is authorized to hold any claim for payment or expense approved by the Board or the Lead Agency which the fiscal officer believes does not comply with proper accounting practices or has not been properly approved and to submit such claim or expense for approval by a majority of the members of both legislative bodies. The fiscal officer shall give the Board Chairman, Superintendent, and Business Manager, or such similar positions as may be designated from time to time, written notice via email at least fifteen (15) days prior to submitting the disputed claim to the legislative bodies. The fiscal officer's failure to refer any claim for payment or expense approved by the Board or the Lead Agency to the legislative bodies shall not be deemed negligent.

3. The Board shall not commence any action against any person employed by either Owner without the consent of the Owners evidenced by a majority of the members of both legislative bodies.

I hereby certify the above to be a true copy  
of the legislation adopted by the Council  
of the City of Binghamton at a meeting  
held on 3/20/13. Approved by the  
Mayor on 3/21/13.



Introductory No.           R13-34          

Permanent No.           R13-34          

Sponsored by City Council Members:  
Motsavage, Matzo, Rennia, Mihalko, Papastrat  
Berg

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IX AMENDING THE JOINT SEWAGE  
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BETWEEN THE VILLAGE OF JOHNSON CITY  
AND THE CITY OF BINGHAMTON

The within Resolution was adopted by the Council of  
the City of Binghamton.

MARCH 20, 2013  
Date  
Angela Holmes  
City Clerk

MARCH 21, 2013  
Date Presented to Mayor  
3/21/13

Date Approved  
Matthew R. J.  
Mayor

	Ayes	Nays	Abstain	Absent
Motsavage	✓			
Mihalko	✓			
Rennia	✓			
Webb	✓			
Papastrat	✓			
Matzo	✓			
Berg				✓
Total	6	0	0	1

☐ Code of the City of Binghamton

☒ Adopted    ☐ Defeated

6 Ayes 0 Nays 0 Abstain 1 Absent